

THE LAW OFFICE OF

ELISA HYMAN, P.C.

June 10, 2022

BY ECF

Honorable Paul E. Engelmayer
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *M.K., et al. v. New York City Department of Education, et al.*,
20-cv-4321 (PAE)

Dear Judge Engelmayer:

I represent the Plaintiffs in the above-referenced case and write jointly with Defendants to respectfully request an extension of time to (a) submit the Joint Statements of Fact; and (b) to file for summary judgment.

The parties have been actively engaged in settlement and are moving closer to hopefully being able to resolve the claims here. We engaged in meaningful discussion during the settlement conference with Judge Gorenstein. Since the settlement conference, we have been exchanging detailed terms in relation to the amount of any compensatory services, the structure of the relief, the length of time the relief is available, and attorney's fees, for which Defendants have already obtained comptroller approval. While we have not yet reached an agreement, we believe we have made significant progress and are both optimistic that we can settle the issues or at least greatly narrow the focus of any litigation. This is a significant change from where the parties were previously.

The process was, however, delayed due to the fact that Defendants' counsel was recently out sick for an extended period of time as he and his entire family contracted COVID, and one of his family members was (and remains) seriously ill as the result of complications from COVID. Defendants' counsel had agreed to write this letter but, unfortunately today, he has a motion deadline, which is why Plaintiffs' counsel is taking the lead on the request.

The Court's April 5, 2022, order advised the parties that we can jointly apply to extend deadlines provided the final brief is submitted by October 6, 2022. ECF No. 63. Under the circumstances, however, and because the parties are making progress in settlement, the parties request permission to submit a revised briefing schedule that allows us to extend the schedule beyond October 6, 2022. However, given the Court's admonition, we are not going to make this request unless the Court grants permission to do so.

Thus, since we do not want to violate the Court's order, at this point, we request an extension of time to file the Joint Statement of Facts ("JSF") from Monday, June 13, 2022, to July 6, 2022, with the rest of the schedule undisturbed.

However, in the alternative, if the Court is amenable to modifying the schedule in light of the unavoidable situation noted above, the parties also seek permission to modify the briefing schedule, with Plaintiffs' initial motion due September 20, 2022, rather than July 25, 2022, which afford the parties more time to try to complete the settlement.

The reason for the proposal to move the schedule out to September is that Plaintiffs would be prejudiced by having to file their motion on August 25, 2022. The original schedule was negotiated to take into account the situation that Plaintiffs described to the Court at the conference, pursuant to which scores of Plaintiffs' counsel's clients file their impartial hearing requests for the new school year between August 15th and the first day of school, September 8, 2022. Further, her office will be short-staffed at the end of August. If the Court is amenable to this request given the above situation, the parties propose the following revised schedule:

1. JSF due August 25, 2022
2. Plaintiffs' motion due September 20, 2022;
3. Defendants brief in opposition and in support of defendants' motion due October 20, 2022;
4. Plaintiffs' reply brief in support of her motion and response to defendants' cross-motion due November 9, 2022;
5. Defendants' reply brief in support of their motion due November 23, 2022.

Thank you for Your Honor's consideration of the above requests.

Sincerely,

/s/ *Elisa Hyman*

Elisa Hyman

Counsel for the Plaintiffs

Cc: Philip Frank, Esq., Assistant Corporation Counsel (via ECF)

The Court thanks the parties for this update. The parties' joint request for an extension to file the joint statement of facts is granted. The Court declines to consider the parties' request for a modification of the summary judgment schedule. For avoidance of doubt, all other deadlines in the briefing schedule, Dkt. 63, remain in place. The Court wishes defendants' counsel and his family well. SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge
6/14/22